IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

MONDAY, THE 2ND APRIL 2007 / 12TH CHAITHRA 1929

WP(C).No. 25842 of 2003(B)

PETITIONER:

K.SIVARAMAN NAIR,
KANNANKUNNEL HOUSE, NAYARANGADI, POOMALA P.O.,
MULANKUNNATHUKAVU VIA., THRISSUR DISTRICT.

BY ADV. SRI.PIRAPPANCODE V.SREEDHARAN NAIR
SRI.S.P.ARAVINDAKSHAN PILLAY
SRI.PIRAPPANCODE V.S.SUDHIR
SRI.V.VARGHESE

RESPONDENTS:

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1. THE CHIEF ENGINEER, IRRIGATION DEPARTMENT, KERALA STATE, THIRUVANANTHAPURAM.

2. THE EXECUTIVE ENGINEER, IRRIGATION DIVISION, THRISSUR.

3. THE ACCOUNTANT GENERAL (A&E) KERALA, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SMT. LAKSHMI RANI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: COPY OF THE PAGE 7 OF THE PENSION BOOK ISSUED TO THE PETITIONER EVIDENCING THAT THE S.L.R. SERVICE OF THE PETITIONER HAD BEEN REGULARISED.

EXT.P2: COPY OF THE ABSTRACT OF THE LETTER No.34983/B1/90/PW&T DATED 5.5.91 OF THE COMMISSIONER AND SECRETARY TO GOVERNMENT, PW&t DEPARTMENT 'B' DEPARTMENT, THIRUVANANTHAPURAM TO THE ACCOUNTANT GENERAL, KERALA.

EXT.P3: COPY OF THE ORDER No.P-14/PEN A/1119/BM/01-02/115 DATED 19.4.2002 OF TE ACCOUNTANT GENERAL, KERALA.

EXT.P4: COPY OF THE PETITION DATED 26.5.2002 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.

EXT.P5: COPY OF THE LETTER No.A1-46/2002 DATED 4.6.2002 ISUED BY THE ASSISTANT EXECUTIVE ENGINEER, IRRIGATION SUB DIVISION TALAPPILLY TO THE EXECUTIVE ENGINEER, IRRIGATION DIVISION, THRISSUR.

EXT.P6: COPY OF THE STATEMENT SUBMITTED BY THE ASSISTANT EXECUTIVE ENGINEER, REGARDING THE DETAILS OF THE S.L.R. SERVICE OF THE PETITIONER.

EXT.P7: COPY OF THE ORDER No.P-14/PENA/1119/BM/61.02 DATED 17.7.2002 OF THE 3RD RESPONDENT.

EXT.P8: COPY OF THE INTIMATION SLIP GIVEN TO THE PETITIONER AS PPO No.54026513 BY THE 3RD RESPONDENT IN RELATION TO HIS PENSIONARY BENEFITS, COMMUTATION OF PAYMENT AND GRATUITY PAYMENT.

EXT.P9: COPY OF THE LETTER NO.A7-363/2002 ISSUED BY THE EXECUTIVE ENGINEER TO THE 3RD RESPONDENT.

EXT.P10: COPY OF THE ORDER NO.P-07/PENA/339/KK/03-04 DATED 22.7.2003.

EXT.P11: COPY OF THE LIST OF SLR WORKERS.

RESPONDENTS EXHIBITS:

EXT.R1(a): G.O.(P) 106/85/PW&T DT.17.9.1985.

EXT.R1(b): G.O.(MS)46/90/PW&T DT.18.5.90.

TRUE COPY

P.A.TO JUDGE

A.K.BASHEER,J

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W. P.(C).No.25842 OF 2003

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Dated this the 2nd day of April, 2007

JUDGMENT

The grievance of the petitioner who is a retired government employee is that the period of service rendered by him as Seasonal Labour Roll(SLR) has been refused to be reckoned for calculating his pension. The case of the petitioner is that he was enrolled as an SLR worker with effect from August 20,1966 and continued as such, till December 31, 1985. He was absorbed as a regular Grade II worker in the Irrigation Department with effect from February 1, 1986 and he retired from service on July 31,2002. If the entire period of service including the ten years that he spent as SLR worker was taken into account, he would have got total period of more than 27 years of service to his credit. It is thus contented by the petitioner that he is entitled to get pension on the basis of the entire length of service rendered by him.

2. However, respondent No.3 took the view that the period of service rendered by the petitioner as SLR worker would be counted only if the petitioner did not have minimum period of pensionable service to his credit. Since, the petitioner had more than 16 years of service as regular Grade II worker, the period spent by him as SLR

would not be counted. Therefore, the Accountant General refused the claim made by the petitioner as evidenced by Ext.P3. Respondent No.3 sanctioned only Rs.425/- to the petitioner as pension. Consequently an order was passed by respondent No.3 fixing the quantum of gratuity payable to the petitioner on the basis of the above calculation. True copy of the above order is on record as Ext.P8 which is also under challenge in this writ petition.

3. Learned Government Pleader placing heavy reliance on Exts.R1(a) and R1(b) contends that the period of SLR service would be counted only for the purpose of granting minimum pension to an employee who had been regularised in his service.

4. It is the admitted position that the petitioner had spent 2756 days as SLR worker as revealed from Ext.P6 statement furnished by the Assistant Executive Engineer in the Sub division where the petitioner had worked. Calculating the total length of SLR service on the basis of Ext.P2 letter issued by the Government, petitioner had only 16 years service of SLR to his credit. It is the contention of the petitioner that the above period of service has also to be reckoned as pensionable service in addition to the period of regular service which he had to his credit.

5. Learned counsel for the petitioner has invited my attention to Ext.P10 and P11 proceedings of the Accountant General. In Ext.P10

proceedings of the Accountant General, it is seen that one George V.O who had worked as SLR worker initially was regularised in service later. He was given pension reckoning the entire period of service including SLR service, Ext.P11 list of workers prepared by the Chief Engineer in the department shows that the person mentioned above namely Sri.V.O.George had joined service as SLR on September 29, 1965 and he was absorbed in service on December 1,1985. Ext.P10 proceedings of respondent No.3 reveals that Sri.V.O Geroge had retired from service on October 31, 2003 and his pensionable service was reckoned as 28 years including SLR service. Yet another similarly placed employee namely, Sri. Balakrishnan K.M was also given the same benefit. A copy of the proceeding issued by respondent No.3 in respect of the said employer has been made available which is taken on record and marked as Ext.X. The above proceedings show that there is force in the contention raised in the petitioner that similarly placed employees had been treated unequally. Therefore, this is a matter which has to be necessarily looked into by respondent No.3 afresh. Petitioner has preferred Ext.P4 revision before respondent No.3 highlighting his grievances.

Having heard learned counsel for the petitioner and the learned Government Pleader, the writ petition is disposed with a direction to respondent No.3 to consider Ext.P4 in the light of Exts.P10, P11 and

Ext.X and take a decision thereon in accordance with law. Respondent No.3 shall pass an appropriate order as expeditiously as possible, at any rate, within three months from the date of receipt of a copy of this judgment. The petitioner shall produce a certified copy of this judgment along with a copy of the writ petition and annexures including Ext.X before respondent No.3 for compliance.

A.K. BASHEER,JUDGE

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